Gray, 4 Allen 435 (Mass.); *People v. Carney*, 29 Hun. 47 (N. Y.). There is, however, a decided conflict as to whether a bastard child may be exhibited to the jury for the purpose of showing resemblance to the defendant. It was held in *Gilmanton v. Ham*, 38 N. H. 108; *Scott v. Donovan*, 153 Mass. 378, and *Crow v. Jordan*, 49 Ohio St. 655, that it was proper to introduce the bastard child, while in *Robnett v. People*, 16 Ill. App. 299, and *Hanawalt v. State*, 64 Wis. 84, the contrary was held. Some states make a distinction as to the age of the child, and in *Hilton v. State*, 41 Tex., Cr. R. 190, a child seven months old, was too young to be admitted in evidence for proof of resemblance to its putative father. The same was held of a child six weeks old. *Clark v. Bradstreet*, 80 Me., 454.

DISCOVERY—IN EQUITY—STATUTORY REMEDY.—KEYSTONE LUMBER YARD v. YAZOO & M. V. R. CO. ET AL, 50 So. 445 (MISS.).—*Held*, that the chancery court has jurisdiction of a bill for discovery, though plaintiff may have legal means of obtaining proof.

The theory of a bill of discovery in equity is that it lies only where courts of law are unable to compel disclosure of the party's knowledge. *Heath v. Erie Ry. Co.*, 9 Blatchf. 316; *Riopelle v. Doellner*, 26 Mich. 102. This rule has been followed in many federal and state courts. *Cecil Nat. Bk. v. Thurber*, 59 Fed. 913; *Norwich & W. R. Co. v. Storey*, 17 Conn. 364; *Law v. Thorndyke*, 37 Mass. 317; *Fitzhugh v. Everingham*, 2 Edw. Ch. (N. Y.) 605. The same is held in *Brown v. McDonald*, 110 Fed. 964; but this decision was reversed by the Circuit Court of Appeals in 133 Fed.. 897. Such a bill was held demurrable in *Souza v. Belcher*, 3 Edw. Ch. (N. Y.) 117; *contra*: *Wood v. Hudson*, 96 Ala. 469. But following decisions have allowed the bill even where there is a complete remedy at law. *Kelley v. Boettcher*, 85 Fed. 59; *Garden City Sand Co. v. People*, 118 Ill. App. 372; *Miller v. U. S. Casualty Co.*, 61 N. J. Eq. 110; *Elliston v. Hughes*, 38 Tenn. 225.

HOMICIDE—ASSAULT WITH INTENT TO KILL—DEFENSE—DRUNKENNESS. —CHOWNING v. STATE, 121 S. W. 735 (ARK.).—*Held*, that in defense of a prosecution for assault with intent to kill, it may be shown that at the time of the assault accused was so drunk that he could not have entertained the intent necessary to constitute the crime.

Proof of intent is essential in such a prosecution. *Ward v. State*, 58 Neb., 719. And where one is incapable of forming the specific intent necessary, he cannot commit assault with intent to murder. *State v. Di Guglielmo*, 4 Pennewill (Del.) 336. And drunkenness may be considered by the jury, since it may have produced a state of mind unfavorable to premeditation, though not so great as to make him incapable of a deliberate purpose. *Lancaster v. State*, 70 Tenn. 575. But intoxication cannot reduce assault with intent to murder to a mere assault. *Jeffries v. State*, 9 Tex. App. 598. And it has been held that intoxication which does not amount to insanity is no defense in such a prosecution. *Little v. State*, 42 Tex. Cr. R. 551.